

REMARKS

By the present amendment, Applicant has amended Claims 1, 12 and 17, and cancelled Claims 8 and 9. Claims 1 and 12-17 remain pending in the present application. Claims 1, 12, 13, 16 and 17 are independent claims.

Applicant hereby respectfully requests a personal interview with the Examiner to discuss the merits of the present invention in accordance with MPEP § 713.01. Applicant's representative was unable to schedule an interview prior to the initial period set for response. Accordingly, Applicant respectfully requests that the Examiner consider the effect of the present amendment and defer taking any further action in this case until an interview can be arranged.

In the recent Office Action the Examiner rejected Claims 1 and 12 under 35 U.S.C. § 102(b) as being anticipated by Skilton. Claims 8, 9, and 17 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Cross in view of Liang. The cancellation of Claims 8 and 9 by the present amendment serves to render these particular grounds of rejection moot. The indication by the Examiner that Claims 13, 14, 15, and 16 were allowable over the prior art of record is noted with appreciation.

Applicant will advance arguments hereinbelow to illustrate the manner in which the presently claimed invention is patentably distinguishable from the cited and applied prior art. Reconsideration of the present application is respectfully requested.

The Examiner rejected Claims 1 and 12 under 35 U.S.C. 102(b), as being anticipated by Skilton. This rejection is respectfully traversed. Claim 1 recites a utensil holder comprising a plurality of vertically aligned receptacles, each receptacle having a depression

defined on an upper surface thereof. Skilton lacks receptacles having a depression defined on an upper surface thereof. Skilton teaches a tobacco pipe rack having a plurality of pipe holders (A), each having a hole through which the stem of a tobacco pipe is apparently inserted to hold the tobacco pipe. While the Examiner notes that a "depression can be a concavity or a hollow", Applicant respectfully submits that a depression is not a hole as shown by Skilton, in that a depression as formed in Applicant's receptacles does not extend entirely through the receptacle, while the hole in Skilton's pipe holders is formed entirely through the pipe holder. Applicant respectfully submits that, not only does Skilton not show a receptacle similar to Applicant's, substituting the holes formed through Skilton's pipe holders with a depression formed on the surface of a pipe holder would render the pipe holder non-functional since it would no longer be possible to insert a pipe stem through the hole to hold the pipe. Applicant has amended Claim 1 to recite "a concave depression" to clarify Applicant's unique structure. Additionally, Applicant has amended Claim 1 to more clearly define that the receptacles are vertically spaced apart from one another, a feature entirely lacking from Skilton.

Claim 12 recites a utensil holder comprising a plurality of vertically aligned receptacles and at least one upright compartment mounted alongside the vertically aligned receptacles. As described in the specification of Applicant's present application, the upright compartment is a cylindrical or slotted compartment for holding a utensil in an upright position. The Examiner states that Skilton's mounting bracket (B) and mounting screw hole (D) through the mounting bracket "can be seen as an upright compartment in that an object may be inserted into aperture D". Applicant respectfully submits that a simple mounting screw hole cannot be construed as a compartment, let alone an upright compartment for

holding a utensil in an upright position as described in specification of Applicant's present application. Thus, Applicant respectfully submits that Skilton fails to anticipate Claim 12 because Skilton fails to teach or suggest "an upright compartment mounted vertically alongside [the] column of elevated receptacles." Applicant has amended Claim 12 to more clearly define that the upright compartment has a "vertically elongated hollow interior" consistent with the description in the specification that the upright compartment is a cylindrical or slotted compartment for holding a utensil in an upright position.

Applicant respectfully submits that for at least these reasons, independent Claims 1 and 12 are allowable over the prior art applied of record.

The Examiner rejected Claims 8, 9, and 17 under 35 U.S.C. 103(a) as being unpatentable over Cross in view of Liang. Applicant has cancelled Claims 8 and 9, rendering this ground of rejection moot with respect to claims 8 and 9. Regarding Claim 17, this rejection is respectfully traversed. Claim 17 recites a utensil holder comprising a plurality of vertically aligned receptacles, each of the receptacle holders having a handle support defined on an upper surface thereof. The Examiner fails to identify any feature of either Cross or Liang that corresponds to Applicant's handle support. Applicant respectfully submits that neither Cross nor Liang include a handle support or any structure that can be construed as a handle support. Further, Applicant has amended Claim 17 to more clearly describe that the handle support is an "elevated handle support." Thus, Applicant contends that Claim 17 is not obvious in view of Cross and Liang because a combination of the Cross and Liang references does not reasonably teach or suggest all of the limitations of independent Claim 17.

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Applicant respectfully submits that for at least these reasons, independent Claim 17 is allowable over the prior art applied of record.

For the foregoing reasons, Applicant respectfully submits that the present application is in condition for allowance. If such is not the case, the Examiner is requested to kindly contact the undersigned in an effort to satisfactorily conclude the prosecution of this application.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Richard C. Litman', with a long horizontal flourish extending to the right.

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